IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

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Surendra Singh. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No.2354/2006

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Date of Order: May 08, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. S.D. Goswami, for the petitioner.
Mr. S.K. Vyas, Government Advocate, for respondents.

BYTHE COURT:

By the instant writ petition under Articles 226 and 227 of the Constitution of India, the petitioner seeks direction to the respondents to consider his case for compassionate appointment and quashing the orders Annx.11, Annx.12 and Annx.17.

I have heard learned counsel for the parties.

Petitioner's father Hanuman Singh was appointed with the respondent Municipal Board, Hanumangarh on the post of Sub-Nakedar with effect from 3-10-1981. While in service, it appears that he was involved in a criminal case of uxoricide and placed under suspension. He was convicted by the Sessions Judge, Hanumangarh, Camp Sangaria, and sentenced to life

imprisonment. However, on an appeal, this Court suspended his substantive sentence and on 1-12-1995, he died in a road accident. Even after conviction, the services of the government employee i.e. the father of the petitioner, were not terminated as the learned counsel for the respondents could not show any order terminating the services of deceased Hanuman Singh. Even the facts stated in the writ petition to the extent that the father of the petitioner died while in service in a road accident on 1-12-1995 have not been disputed. The allegation against the father of the petitioner in the criminal case was that he committed the murder of his wife, who was the mother of the petitioner, for which he was convicted for the offences under Sections 302/304-B, IPC and sentenced to imprisonment for life. However, on an appeal before the Division Bench of this Court, he was released on bail and while on bail, he met with an accident and died and, therefore, the appeal filed by petitioner's father Hanuman Singh came to be abated vide order dated 7-9-1999 on his death. The petitioner filed an application before the respondents seeking appointment on compassionate ground. Vide letter Annx.7 dated 18-9-2003, the respondent Municipal Corporation, Hanumangarh sought a direction from the Director, Department of Local Bodies, Government of Rajasthan, Jaipur as to whether compassionate appointment to the petitioner can be given. Vide orders dated 17-2-2005 (Annx.11), 24-3-2005

(Annx.12) and 8-3-2006 (Annx.17), the respondents declined to consider the case of the petitioner for compassionate appointment on the ground that the application filed by the petitioner is beyond the period of limitation and the relaxation provided in the Notification dated 11-9-2002 cannot be extended to the petitioner. Hence this writ petition.

A reply to the writ petition has been filed by the respondents stating therein that the object of providing appointment on compassionate ground is to provide immediate relief to the grieved family survived by a deceased Government employee and after considering all the circumstances, a decision declining to consider petitioner's case for providing compassionate appointment has been taken and it has been stated that the petitioner is claiming compassionate appointment after eleven years from the date of death of his father Hanuman Singh.

Learned counsel for the petitioner has relied on a decision of the Hon'ble Supreme Court in Syed Khadim Hussain Vs. State of Bihar & ors., (2006) 9 SCC 195, wherein on the death of the Government employee, an application was filed by his widow seeking compassionate appointment, however the application came to be rejected because it was not in the prescribed format. Thereafter her son applied for compassionate appointment in the year 1995 and that application came to be

rejected in the year 2001 on the ground that at the time of filing the application, the applicant was aged about 13 years and, therefore, not entitled for compassionate appointment. The Hon'ble Supreme Court allowed the appeal filed by the son of the deceased Government employee and directed the respondent Authority to consider the application of the applicant therein and give him appropriate appointment within a reasonable time. The Hon'ble Apex Court observed as under:-

> "We have heard the appellant's counsel and counsel for the respondent. Counsel for the appellant points out that after the death of the government servant his wife submitted an application and it was rejected without giving any reasons and the counsel for the State submits that the same must have been rejected as it was not in the prescribed format. If the applicant had not submitted the application in the prescribed format the State authorities should have asked the applicant to submit the application in the prescribed format giving out the details of the procedure. In the matters of compassionate appointments the authorities should extend the service in an effective manner so that the eligible candidate may avail the opportunity. Though the orders of rejection of the application of the appellant's mother was not challenged the appellant pursued the matter and submitted the application later. The contention of the counsel for the State is that the application filed after 5 years after the date of death of the government employee will not be considered and he further submitted that the application filed on 7-9-1995 was rightly rejected by the authorities.
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> We are unable to accept the contention of the counsel for the State. In the instant case, the widow had applied for appointment within the prescribed period and without assigning any reasons the same was rejected. When the appellant submitted the application he was 13 years' old and the application

> was rejected after a period of six years and that too without giving any reason and the reason given by the authorities was incorrect as at the time of rejection of the application he must have cross 18 years and he could have been very well considered for appointment. Of course, in the rules framed by the State there is no specific provision as to what should be done in case the dependents are minors and there would be any relaxation of age in case they did not attain majority within the prescribed period for submitting application."

In the instant case, the petitioner's father Hanuman Singh, while in the employment of the respondents, committed the murder of his wife who happened to be the mother of the present petitioner and was placed under suspension. Subsequently, he died in a road accident and till his death on 1-12-1995, he continued to remain in the service of the respondents and was an employee of the respondent. The deceased is survived by the petitioner and a minor daughter. Therefore, in the peculiar facts and circumstances of the instant case, the petitioner is in harness. There being no source of income and he has not been paid any amount even by the respondents as stated by the learned counsel for the petitioner. Petitioner and his younger minor sister were lost their mother by cruel hand of their father and then they lost their father in an ill-fated road accident and therefore, in real senses, they are in harness and facing the acute and sudden financial crisis. Keeping in view the decision of the Hon'ble Supreme Court in Syed

Khadim Hussain Vs. State of Bihar & ors. (supra), in my view, in the peculiar facts and circumstances of the case, the case of the petitioner deserves to be considered for compassionate appointment.

In this view of the matter, while allowing the writ petition, the respondents are directed to consider the case of the petitioner for compassionate appointment keeping in view the peculiar facts and circumstances of the case. However, this shall not be treated as a precedent as the order has been passed keeping in view the peculiar facts and circumstances of the case noticed above. There shall be no order as to costs.

(H.R. PANWAR), J.

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